

TIC: 6 MINS

MAGISTRATE'S CRIMINAL MINUTES
REMOVALS (RULE 40)

FILED IN OPEN COURT

DATE: 4/4/06 @ 5:15TAPE: 06-05 @ 01MAGISTRATE JUDGE BRILLATBURNS DEPUTY CLERKCASE NUMBER 106M1480DEFENDANT'S NAME BRIAN V. CLARKAUSA CANDISS HOWARDDEFENDANT'S ATTY V. REYES JOHNSONUSPO C LOGANType Counsel (circle) Retained CJA PDP PDP☒ Initial appearance hearing held.☐ Interpreter _____☒ Defendant informed of rights. Defendant to employ counsel by _____☒ ORDER appointing Federal Defender Program attorney for defendant.☐ ORDER appointing _____ attorney for defendant.☐ ORDER defendant shall pay attorney's fees as follows: _____☒ Defendant WAIVES removal hearing (as to identity only). ☒ WAIVER FILED.☐ Defendant WAIVES preliminary hearing (____ In this district only). _____ WAIVER FILED.☐ Removal hearing set/reset/cont to _____ @ _____☐ Removal hearing HELD. Probable cause found / Defendant identified as defendant charged.☐ Defendant to answer to charges in other district.☐ Defendant ordered removed to other district.☐ Commitment issued _____**BOND/PRETRIAL DETENTION HEARING**ORAL Government motion for detention filed.☒ Temporary commitment ordered. Hearing to be held 4/6/06 @ 10:45☐ BOND/DETENTION HEARING HELD _____ Requested in charging district.☐ Government's motion for detention _____ GRANTED _____ DENIED _____ WITHDRAWN☐ Detention ORDERED. (Written order to follow _____).☐ BOND SET at \$ _____☐ NON-SURETY☐ SURETY/CASH: _____ Property Acceptable: _____ Corporate Surety Only☐ Combination: _____☐ SPECIAL CONDITIONS: _____☐ BOND filed. Defendant RELEASED.☐ BOND not executed. Defendant to remain in Marshal's custody.☐ SEE PAGE 2

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**FILED IN OPEN COURT
U.S.D.C. Atlanta**

APR 4 2006

LUTHER B. THOMAS, Clerk
By:  Deputy Clerk

UNITED STATES OF AMERICA,

vs.

CASE NO. 1:06-MJ-480

BRIAN V. CLARK,

Defendant.

ORDER APPOINTING COUNSEL

Vionnette Reyes

The above-named defendant has testified under oath or has filed with the Court an affidavit of financial status and hereby satisfied this Court that he or she is financially unable to employ counsel.

Accordingly, the **FEDERAL DEFENDER PROGRAM, INC.**, is hereby appointed to represent this defendant in the above-captioned case unless relieved by an Order of this Court or by Order of the Court of Appeals.

Dated at Atlanta, Georgia this 4th day of April, 2006.


UNITED STATES MAGISTRATE JUDGE

FILED IN OPEN COURT
U.S.D.C. Atlanta

AO 466 (Rev. 8/01) Waiver of Rule 40 Hearings

UNITED STATES DISTRICT COURT
Northern District of Georgia

APR 4 2006

By: LUTHER D. THOMAS, Clerk
Deputy Clerk

UNITED STATES OF AMERICA

WAIVER OF RULE 40 HEARINGS
(All Criminal Cases)

V.

JUDGE: GERRILYN G. BRILL

BRIAN V. CLARK,
Defendant

CASE NUMBER: 1:06-MJ-480

I understand that charges are pending in the Middle District of Alabama
alleging violation of 18:922(g) - felon possessing firearm and that I have been arrested in this district and
taken before a United States Magistrate Judge, who has informed me of the charge(s) and my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;

- Check one only -

[] EXCLUDING PROBATION OR SUPERVISED RELEASE CASES:

- (3) a preliminary examination (unless an indictment has been returned or information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
- (4) request transfer of the proceedings to this district under Rule 20, Fed. R. Crim. P., in order to plead guilty.

[] PROBATION OR SUPERVISED RELEASE CASES:

- (3) a preliminary examination (if the violation charged allegedly occurred in this district, and I am held in custody solely on that charge) to determine whether there is probable cause to believe I have violated the terms of my probation/supervised release; and
- (4) a hearing under Rule 46 (c), Fed. R. Crim. P., in which I have the burden of establishing my eligibility for release.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

- ☒ identity hearing
- ☐ preliminary examination
- ☐ identity hearing and have been informed I have no right to a preliminary examination
- ☐ identity hearing but request a preliminary examination be held in the prosecuting district and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Defendant

Defense Counsel

April 4, 2006

AO 470 (8/85) Order of Temporary Detention

FILED IN OPEN COURT
U.S.D.C. Atlanta

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

APR 4 2006

By:  **LUTHER D. THOMAS, Clerk**
Deputy Clerk

UNITED STATES OF AMERICA,

vs.

BRIAN V. CLARK,

Defendant.

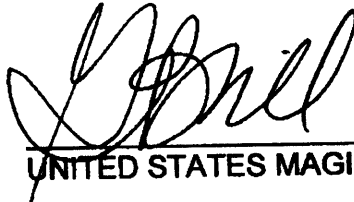
ORDER OF TEMPORARY DETENTION
PENDING HEARING PURSUANT
TO BAIL REFORM ACT

CASE NO. 1:06-MJ-480

Upon motion of the Government, it is **ORDERED** that a detention hearing is set for April 6, 2006¹ at 10:45 before United States Magistrate Judge GERRILYN G. BRILL, U.S. Courthouse, Richard B. Russell Building, 18th Floor, Room 1834, 75 Spring Street, S.W., Atlanta, Georgia 30303.

Pending this hearing, the defendant shall be held in custody by the United States Marshal and produced for the hearing.

Dated at Atlanta, Georgia this 4th day of April, 2006.


UNITED STATES MAGISTRATE JUDGE

¹ If not held immediately upon defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the defendant. 18 U.S.C. 3142(f)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. 3142(f) are present. Subsection (1) sets forth the grounds that may be asserted only by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the judicial officer's own motion if there is a serious risk that the defendant (a) will flee or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate; or attempt to threaten, injure, or intimidate a prospective witness or juror.

MAGISTRATE'S CRIMINAL MINUTES
REMOVALS (RULE 40)

FILED IN OPEN COURT

DATE: 4/6/06 @ 11:35TAPE: 06-05 @ 4272MAGISTRATE JUDGE BRILLATBURNS DEPUTY CLERKCASE NUMBER 106MJ480DEFENDANT'S NAME BRIAN V. CLARKAUSA SCOTT HULSEYDEFENDANT'S ATTY V. REYES-JOHNSTON
Type Counsel (circle) Retained CJA FDPUSPO C. LOGAN

TIC 8 MINS

☐ Initial appearance hearing held.☐ Interpreter _____☐ Defendant informed of rights. Defendant to employ counsel by _____☐ ORDER appointing Federal Defender Program attorney for defendant.☐ ORDER appointing _____ attorney for defendant.☐ ORDER defendant shall pay attorney's fees as follows: _____☐ Defendant WAIVES removal hearing (as to identity only). _____ WAIVER FILED.☐ Defendant WAIVES preliminary hearing (____ In this district only). _____ WAIVER FILED.☐ Removal hearing set/reset/cont to _____ @ _____☐ Removal hearing HELD. Probable cause found / Defendant identified as defendant charged.☐ Defendant to answer to charges in other district.☐ Defendant ordered removed to other district.☐ Commitment issued _____**BOND/PRETRIAL DETENTION HEARING** PROFFER BY GOVT☐ Government motion for detention filed.☐ Temporary commitment ordered. Hearing to be held _____ @ _____☒ BOND/DETENTION HEARING HELD _____ Requested in charging district.☒ Government's motion for detention ☒ GRANTED _____ DENIED _____ WITHDRAWN☒ Detention ORDERED. (Written order to follow ☒).☐ BOND SET at \$ _____☐ NON-SURETY☐ SURETY/CASH: _____ Property Acceptable: _____ Corporate Surety Only☐ Combination: _____☐ SPECIAL CONDITIONS: _____☐ BOND filed. Defendant RELEASED.☐ BOND not executed. Defendant to remain in Marshal's custody.☐ SEE PAGE 2


FILED IN OPEN COURT

U.S.D.C. Atlanta

AO 472 (Rev. 3/86) Order of Detention Pending Trial

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

APR - 6 2006

LUTHER D. THOMAS, Clerk
By: 

UNITED STATES OF AMERICA

ORDER OF DETENTION PENDING TRIAL

vs

BRIAN V. CLARK
Defendant

Case No.: 1:06-MJ-480

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f) a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense) (State or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- ☐ a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
 - ☐ an offense for which the maximum sentence is life imprisonment or death.
 - ☐ an offense for which the maximum term of imprisonment of ten years or more is prescribed in _____.
- ☐ _____ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternate Findings (A)

- ☐ (1) There is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more is prescribed in _____.
 - ☐ under 18 U.S.C. §924(c).
- ☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternate Findings (B)

- ☒ (1) There is a serious risk that the defendant will not appear.
- ☒ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

(See below)

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by (clear and convincing evidence) (a preponderance of the evidence) that

Defendant has extensive criminal history w/ prior conviction for failure to appear. He is meth user. Unstable residence.

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of any attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: April 6, 2006


 GERRILYN G. BRILL, UNITED STATES MAGISTRATE JUDGE

* Insert as applicable: (A) Controlled Substances Act (21 U.S.C. §801 et seq.); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 et seq.); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

AO 94 (10/82) Commitment to Another District (Rule 40, FRCrP)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

**FILED IN OPEN COURT
U.S.D.C. Atlanta**

APR - 6 2006

By: **LUTHER D. THOMAS, Clerk**
Deputy Clerk

UNITED STATES OF AMERICA,

COMMITMENT TO ANOTHER DISTRICT

VS

BRIAN V. CLARK

CASE NO. 1:06-MJ-480

Charges against the defendant are filed based upon a(n):

☒ indictment ☐ information ☐ complaint ☐ other (specify)

charging a violation of Title 18, United States Code, Section(s) 922(g)

DISTRICT OF OFFENSE: MIDDLE DISTRICT OF ALABAMA - Eastern DivisionDESCRIPTION OF CHARGES: POSSESSION OF FIREARM AFTER FELONY CONVICTIONBOND IS FIXED AT: \$TO: **THE UNITED STATES MARSHAL**

You are hereby commanded to take custody of the above-named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

Dated at Atlanta, Georgia this 6th day of April, 2006.

Gerrilyn D. Brice
UNITED STATES MAGISTRATE JUDGE

RETURN

This commitment was received and executed as follows:

Date Commitment Order Received: _____

Place of Commitment: _____

Date Defendant Committed: _____

Date: _____

United States Marshal: _____

(By) Deputy Marshal: _____